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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,876	01/20/2004	Ray C. Torres	21488/04106	1875
24024	7590	12/14/2006	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP			LE, HUYEN D	
800 SUPERIOR AVENUE			ART UNIT	
SUITE 1400			PAPER NUMBER	
CLEVELAND, OH 44114			3751	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,876

Applicant(s)

TORRES, RAY C.

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-17 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 13 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 14-17 and 21-26 is/are rejected.
- 7) ☒ Claim(s) 8 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "to permit bi-directional movement of the panel relative to the bracket" needs to be added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 9, 10, 14-17, 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Thau (4,875,726).

The Thau reference discloses a system comprising: a bracket 70 including a plurality of fastener mating surfaces 80,32, 84, each fastener mating surface including a plurality of raised ridges 86,88,90; a panel 30 easily attachable to and detachable from the bracket 70, the panel 30, when attached, hiding the bracket 70 when viewed from the exterior; and clips 38,40 and 42 used to attach the panel 30 to the bracket 70 via engagement with at least one raised ridge 86 of a corresponding fastener mating surface 80, wherein each raised ridge 86 corresponds to a different position of the panel 30 relative to the bracket 70; and wherein the clips 38,40,42 and the raised ridges

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86,88,90 cooperate to permit bi-directional movement of the panel 30 relative to the bracket 70.

The introductory statement and all other functional statements of the intended use of the claimed system have been carefully considered but deemed not to impose any structural limitations on the claims distinguishable over the device of Thau which is capable of being mounted in an access opening of the skirt of a bath tub.

Regarding claims 2-3 and 14-17, the tub skirt of a bath tub and the access opening of the tub skirt are not considered parts of the combination of the invention, but rather further define the intended use. The bracket would extend around the perimeter of an excess opening of the tub skirt.

Regarding claim 4, the clips 38,40,42 are integrally formed with and extend from the back of the panel 30.

Regarding claims 5 and 23, the clip 38 (Fig. 2) includes a straight portion (portion on the left of the ridges 44,46,48) and an angled portion 48 (one of the ridges).

Regarding claim 6, the angled portion 44 of the clip 38 (a triangular ridge) includes a leading edge and a trailing edge together defining a V-shape.

Regarding claim 9, the bracket 70 is a rectangular frame.

Regarding claim 10, the rectangular frame 70 includes at least one fastener mating surface 82 on at least two of its four sides.

Regarding claim 25, the panel is spaced apart from the bracket 70 when attached (Fig. 3).

Regarding claim 26, the different positions define different distances between the panel 30 and the bracket 70 (see Figs. 2 and 3).

Allowable Subject Matter

4. Claims 12-13 and 27 are allowed.
5. Claims 8 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-6, 9, 10, 14-17, 21-26 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Huyen Le
Primary Examiner
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December 7, 2006